

806 KAR 49:020. Captive insurer application requirements.

RELATES TO: KRS 304.49-010-304.49-230

STATUTORY AUTHORITY: KRS 304.2-110, 304.49-020(3), 304.49-140

NECESSITY, FUNCTION, AND CONFORMITY: KRS 304.2-110 provides that the Commissioner of Insurance may promulgate administrative regulations necessary for or as an aid to the effectuation of any provisions of the Kentucky Insurance Code. KRS 304.49-140 authorizes the Commissioner of Insurance to establish and amend administrative regulations related to captive insurance companies as necessary to effectuate the provisions of KRS 304.49-010 to 304.49-230. KRS 304.49-020(3) authorizes the Commissioner of Insurance to promulgate administrative regulations concerning the application for a certificate of authority for captive insurers. This administrative regulation establishes application requirements for the regulation of captive insurers.

Section 1. Definition. "Company" means the captive insurer.

Section 2. A captive insurer seeking to obtain a certificate of authority to engage in insurance business in Kentucky shall apply to the Kentucky Department of Insurance by completing and filing the following forms:

- (1) Captive Application for Admission, CI-103;
- (2) Coverage Limits and Reinsurance, CI-105;
- (3) Irrevocable Letter of Credit CI-130;
- (4) Application for Authorization to Certify Loss Reserves and Loss Expense Reserves for Captives CI-110;
- (5) Application for Authorization as an Independent Certified Public Accountant for Captive Insurance Business CI-120; and
- (6) Biographical Affidavit CI-501.

Section 3. All documents required by KRS 304.49-020(3)-(6) shall be submitted with a company's application seeking a certificate of authority to engage in insurance business in Kentucky or a statement describing the reason each document is not applicable.

Section 4. (1) In addition to the processing of the application, an organizational investigation or examination may be performed by the department before an applicant receives a certificate of authority as a captive insurer.

(2) The investigation or examination shall consist of a general survey of the company's corporate records, including:

- (a) Charter, bylaws, and minute books;
- (b) Verification of capital and surplus;
- (c) Verification of principal place of business;
- (d) Determination of assets and liabilities; and
- (e) A review of investment practice policy and procedures.

Section 5. A person shall not act as an insurance producer, broker, agent, salesman, or reinsurance intermediary for captive business without the authorization of the commissioner. Application for that authorization shall be on the Individual Application 8301 form, incorporated by reference in 806 KAR 9:025.

Section 6. Revocation. (1) The commissioner may, subject to the provisions of this section,

by order revoke the certificate of authority of the company:

(a) If the company has not commenced business according to its plan of operation within two (2) years of being licensed;

(b) If the company ceases to carry on insurance business in Kentucky;

(c) At the request of the company; or

(d) For any reason provided in KRS 304.3-190 or 304.3-200.

(2) Before the commissioner revokes the certificate of authority of a company under subsection (1)(a) or (b) of this section, the commissioner shall give the company notice in writing of the grounds on which he proposes to cancel the certificate of authority, and shall afford the company an opportunity to make objection in writing within thirty (30) days receipt of the notice. The commissioner shall take into consideration any objection timely filed and schedule an administrative hearing on the matter in accordance with KRS Chapter 13B.

Section 7. Incorporation by Reference. (1) The following material is incorporated by reference:

(a) Captive Application for Admission CI-103 (6/2020);

(b) Coverage, Limits and Reinsurance CI-105 (4/2001);

(c) Irrevocable Letter of Credit CI-130 (6/2020);

(d) Application for Authorization to Certify Loss Reserves and Loss Expense Reserves for Captives CI-110 (6/2020);

(e) Application for Authorization as an Independent Certified Public Accountant for Captive Insurance Business CI-120 (6/2020); and

(f) Biographical Affidavit CI-501 (4/2001).

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Department of Insurance, 500 Mero Street, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m. (27 Ky.R. 2009; Am. 3251; eff. 6-8-2001; TAm eff. 8-9-2007; Crt eff. 2-26-2020; 47 Ky.R. 407, 973; eff. 2-2-2021.)